

Senate File 2365 - Introduced

SENATE FILE 2365

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 2233)

A BILL FOR

1 An Act providing for the treatment of animals other than
2 agricultural animals, by providing for regulation of
3 commercial establishments, providing for reporting of
4 threatened animals, providing for fees, providing penalties,
5 and including effective date provisions.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 162.1, Code 2009, is amended to read as
2 follows:

3 **162.1 Policy Purpose and scope.**

4 1. The purpose of this chapter is to do all of the
5 following:

6 ~~1. a. To insure~~ Insure that all dogs and cats handled by
7 ~~boarding kennels, commercial kennels, commercial breeders,~~
8 ~~dealers, and public auctions~~ commercial establishments are
9 provided with humane care and treatment ~~by regulating.~~

10 b. Regulate the transportation, sale, purchase, housing,
11 care, handling, and treatment of ~~such animals~~ dogs and cats by
12 persons ~~or organizations~~ engaged in transporting, buying, or
13 selling them ~~and to provide.~~

14 c. Provide that all vertebrate animals consigned to pet
15 shops are provided humane care and treatment by regulating the
16 transportation, sale, purchase, housing, care, handling, and
17 treatment of such animals by pet shops.

18 ~~2. d. To authorize~~ Authorize the sale, trade, or adoption
19 of only those animals which appear to be free of infectious or
20 communicable disease.

21 ~~3. e. To protect~~ Protect the public from zoonotic disease.

22 2. This chapter does not apply to livestock as defined
23 in section 717.1 or any other agricultural animal used in
24 agricultural production as provided in chapter 717A.

25 Sec. 2. Section 162.2, Code Supplement 2009, is amended by
26 adding the following new subsections:

27 NEW SUBSECTION. 4A. "*Animal Welfare Act*" means the
28 federal Animal Welfare Act, 7 U.S.C. ch. 54, and regulations
29 promulgated by the United States department of agriculture and
30 published in 9 C.F.R. ch. 1.

31 NEW SUBSECTION. 4B. "*Authorization*" means a state license,
32 certificate of registration, or permit issued or renewed by the
33 department to a commercial establishment as provided in section
34 162.2A.

35 NEW SUBSECTION. 6A. "*Commercial establishment*" or

1 *"establishment"* means an animal shelter, boarding kennel,
2 commercial breeder, commercial kennel, dealer, pet shop, pound,
3 public auction, or research facility.

4 NEW SUBSECTION. 8A. *"Department"* means the department of
5 agriculture and land stewardship.

6 NEW SUBSECTION. 9A. *"Federal license"* means a license
7 issued by the United States department of agriculture to a
8 person classified as a dealer or exhibitor pursuant to the
9 federal Animal Welfare Act.

10 NEW SUBSECTION. 9B. *"Federal licensee"* means a person to
11 whom a federal license as a dealer or exhibitor is issued.

12 NEW SUBSECTION. 10A. *"Permittee"* means a commercial
13 breeder, dealer, or public auction to whom a permit is issued
14 by the department as a federal licensee pursuant to section
15 162.2A.

16 NEW SUBSECTION. 15A. *"Registrant"* means a pound, animal
17 shelter, or research facility to whom a certificate of
18 registration is issued by the department pursuant to section
19 162.2A.

20 NEW SUBSECTION. 16A. *"State fiscal year"* means the fiscal
21 year described in section 3.12.

22 NEW SUBSECTION. 16B. *"State licensee"* means any of the
23 following:

24 *a.* A boarding kennel, commercial kennel, or pet shop to whom
25 a state license is issued by the department pursuant to section
26 162.2A.

27 *b.* A commercial breeder, dealer, or public auction to whom
28 a state license is issued in lieu of a permit by the department
29 pursuant to section 162.2A.

30 Sec. 3. Section 162.2, subsections 6 and 13, Code Supplement
31 2009, are amended to read as follows:

32 6. *"Commercial breeder"* means a person, engaged in the
33 business of breeding dogs or cats, who sells, exchanges,
34 or leases dogs or cats in return for consideration, or who
35 offers to do so, whether or not the animals are raised,

1 trained, groomed, or boarded by the person. A person who
2 owns or harbors three or fewer breeding males or females is
3 not a commercial breeder. However, a person who breeds ~~or~~
4 ~~harbors more than three~~ any number of breeding male or female
5 greyhounds for the purposes of using them for pari-mutuel
6 racineg waging at a racetrack as provided in chapter 99D shall
7 be considered a commercial breeder irrespective of whether
8 the person sells, leases, or exchanges the greyhounds for
9 consideration or offers to do so.

10 13. "Pound" ~~or "dog pound"~~ means a facility for the
11 prevention of cruelty to animals operated by the state, a
12 municipal corporation, or other political subdivision of the
13 state for the purpose of impounding or harboring seized stray,
14 homeless, abandoned or unwanted dogs, cats or other animals; or
15 a facility operated for such a purpose under a contract with
16 any municipal corporation or incorporated society.

17 Sec. 4. NEW SECTION. 162.2A **Application, issuance, and**
18 **renewal of authorizations.**

19 1. The department shall provide for the operation
20 of a commercial establishment by issuing or renewing an
21 authorization, including any of the following:

22 a. A certificate of registration for a pound, animal,
23 shelter, or research facility.

24 b. A state license for a boarding kennel, commercial kennel,
25 or pet shop.

26 c. A state license or permit for a commercial breeder,
27 dealer, or public auction. A federal licensee must apply for
28 and be issued either a permit or a state license in lieu of a
29 permit.

30 2. A person must be issued a separate state license,
31 certificate of registration, or permit for each commercial
32 establishment owned or operated by the person.

33 3. A person must apply for the issuance or renewal of an
34 authorization on forms and according to procedures required by
35 rules adopted by the department. The application shall contain

1 information required by the department, including but not
2 limited to all of the following:

3 *a.* The person's name.

4 *b.* The person's principal office or place of business.

5 *c.* The name, address, and type of establishment covered by
6 the authorization.

7 *d.* The person's identification number. Notwithstanding
8 chapter 22, the department shall keep the person's tax
9 identification number confidential except for purposes of tax
10 administration by the department of revenue, including as
11 provided in section 421.18.

12 4. The authorization expires on an annual basis as
13 provided by the department, and must be renewed by the
14 commercial establishment on an annual basis on or before the
15 authorization's expiration date.

16 5. *a.* A commercial establishment applying for the issuance
17 or renewal of a permit shall provide the department with proof
18 that the person is a federal licensee.

19 *b.* The department shall not require that it must enter onto
20 the premises of a commercial establishment in order to issue a
21 permit. The department shall not require that it must enter
22 onto the premises of a commercial establishment in order to
23 renew a permit, unless it has reasonable cause to monitor the
24 commercial establishment as provided in section 162.10C.

25 Sec. 5. NEW SECTION. **162.2B Fees.**

26 The department shall establish, assess, and collect fees as
27 provided in this section.

28 1. A commercial establishment shall pay authorization fees
29 to the department for the issuance or renewal of a certificate
30 of registration, state license, or permit.

31 *a.* For the issuance or renewal of a certificate of
32 registration, seventy-five dollars.

33 *b.* For the issuance or renewal of a state license or permit,
34 one hundred seventy-five dollars. However, a commercial
35 breeder who owns, keeps, breeds, or transports a greyhound dog

1 for pari-mutuel wagering at a racetrack as provided in chapter
2 99D shall pay a different fee for the issuance or renewal of a
3 state license as provided in rules adopted by the department.

4 2. The department shall retain all fees that it collects
5 under this section for the exclusive purpose of administering
6 and enforcing the provisions of this chapter. The fees shall
7 be considered repayment receipts as defined in section 8.2.
8 The general assembly shall appropriate moneys to the department
9 each state fiscal year necessary for the administration and
10 enforcement of this chapter.

11 Sec. 6. Section 162.3, Code 2009, is amended by striking the
12 section and inserting in lieu thereof the following:

13 **162.3 Operation of a pound — certificate of registration.**

14 A pound shall only operate pursuant to a certificate of
15 registration issued or renewed by the department as provided
16 in section 162.2A. A pound may sell dogs or cats under its
17 control, if sales are allowed by the department. The pound
18 shall maintain records as required by the department in order
19 for the department to ensure the pound's compliance with the
20 provisions of this chapter.

21 Sec. 7. Section 162.4, Code 2009, is amended by striking the
22 section and inserting in lieu thereof the following:

23 **162.4 Operation of an animal shelter — certificate of**
24 **registration.**

25 An animal shelter shall only operate pursuant to a
26 certificate of registration issued or renewed by the department
27 as provided in section 162.2A. An animal shelter may sell dogs
28 or cats if sales are allowed by the department. The animal
29 shelter facility shall maintain records as required by the
30 department in order for the department to ensure the animal
31 shelter's compliance with the provisions of this chapter.

32 Sec. 8. NEW SECTION. **162.4A Operation of a research**
33 **facility — certificate of registration.**

34 A research facility shall only operate pursuant to a
35 certificate of registration issued by the department as

1 provided in section 162.2A. The research facility shall
2 maintain records as required by the department in order for the
3 department to ensure the research facility's compliance with
4 the provisions of this chapter. A research facility shall not
5 purchase a dog or cat from a commercial establishment that does
6 not have a valid authorization issued or renewed under this
7 chapter or a similar authorization issued or renewed by another
8 state.

9 Sec. 9. Section 162.5, Code 2009, is amended by striking the
10 section and inserting in lieu thereof the following:

11 **162.5 Operation of a pet shop — state license.**

12 A pet shop shall only operate pursuant to a state license
13 issued or renewed by the department pursuant to section
14 162.2A. The pet shop shall maintain records as required by the
15 department in order for the department to ensure the pet shop's
16 compliance with the provisions of this chapter. A pet shop
17 shall not purchase a dog or cat from a commercial establishment
18 that does not have a valid authorization issued or renewed
19 under this chapter or a similar authorization issued or renewed
20 by another state.

21 Sec. 10. NEW SECTION. **162.5A Operation of a boarding kennel**
22 **— state license.**

23 A boarding kennel shall only operate pursuant to a state
24 license issued by the department as provided in section 162.2A.
25 The boarding kennel shall maintain records as required by
26 the department in order for the department to ensure the
27 boarding kennel's compliance with the provisions of this
28 chapter. A boarding kennel shall not purchase a dog or cat
29 from a commercial establishment that does not have a valid
30 authorization issued or renewed under this chapter or a similar
31 authorization issued or renewed by another state.

32 Sec. 11. Section 162.6, Code 2009, is amended by striking
33 the section and inserting in lieu thereof the following:

34 **162.6 Operation of a commercial kennel — state license.**

35 A commercial kennel shall only operate pursuant to a state

1 license issued or renewed by the department as provided in
2 section 162.2A. A commercial kennel shall maintain records
3 as required by the department in order for the department to
4 ensure the commercial kennel's compliance with the provisions
5 of this chapter. A commercial kennel shall not purchase a dog
6 or cat from a commercial establishment that does not have a
7 valid authorization issued or renewed under this chapter or a
8 similar authorization issued or renewed by another state.

9 Sec. 12. Section 162.7, Code 2009, is amended by striking
10 the section and inserting in lieu thereof the following:

11 **162.7 Operation of a dealer — state license or permit.**

12 A dealer shall only operate pursuant to a state license,
13 or a permit, issued or renewed by the department as provided
14 in section 162.2A. A dealer who is a state licensee shall
15 maintain records as required by the department in order for the
16 department to ensure compliance with the provisions of this
17 chapter. A dealer who is a permittee may but is not required
18 to maintain records. A dealer shall not purchase a dog or cat
19 from a commercial establishment that does not have a valid
20 authorization issued or renewed under this chapter or a similar
21 authorization issued or renewed by another state.

22 Sec. 13. Section 162.8, Code 2009, is amended by striking
23 the section and inserting in lieu thereof the following:

24 **162.8 Operation of a commercial breeder — state license or**
25 **permit.**

26 A commercial breeder shall only operate pursuant to a state
27 license, or a permit, issued or renewed by the department
28 as provided in section 162.2A. A commercial breeder who is
29 a state licensee shall maintain records as required by the
30 department in order for the department to ensure the commercial
31 breeder's compliance with the provisions of this chapter. A
32 commercial breeder who is a permittee may but is not required
33 to maintain records. A commercial breeder shall not purchase a
34 dog or cat from a commercial establishment that does not have a
35 valid authorization issued or renewed under this chapter or a

1 similar authorization issued or renewed by another state.

2 Sec. 14. NEW SECTION. 162.9A Operation of a public auction
3 — state license or permit.

4 A public auction shall only operate pursuant to a state
5 license, or a permit, issued or renewed by the department
6 as provided in section 162.2A. A public auction which is
7 a state licensee shall maintain records as required by the
8 department in order for the department to ensure the public
9 auction's compliance with the provisions of this chapter. A
10 public auction which is a permittee may but is not required to
11 maintain records. A public auction shall not purchase a dog or
12 cat from a commercial establishment that does not have a valid
13 authorization issued or renewed under this chapter or a similar
14 authorization issued or renewed by another state.

15 Sec. 15. NEW SECTION. 162.10A Commercial establishments —
16 standard of care.

17 1. *a.* A commercial establishment shall provide for a
18 standard of care that ensures that an animal in its possession
19 or under its control is not lacking any of the following:

20 (1) Adequate feed, adequate water, housing facilities,
21 sanitary control, or grooming practices, if such lack causes
22 adverse health or suffering.

23 (2) Veterinary care.

24 *b.* A commercial establishment, other than a research
25 facility or pet shop, shall provide for the standard of care
26 for dogs and cats in its possession or under its control, and a
27 research facility or pet shop shall provide for the standard
28 of care for vertebrate animals in its possession or under its
29 control.

30 2. *a.* Except as provided in paragraph "b" or "c", a
31 commercial establishment shall comply with rules that the
32 department adopts to implement subsection 1. A commercial
33 establishment shall be regulated under this paragraph "a"
34 unless the person is a state licensee as provided in paragraph
35 "b" or a permittee as provided in paragraph "c".

1 *b.* A state licensee who is a commercial breeder owning,
2 breeding, transporting, or keeping a greyhound dog for
3 pari-mutuel wagering at a racetrack as provided in chapter 99D
4 may be required to comply with different rules adopted by the
5 department.

6 *c.* A permittee is not required to comply with rules that the
7 department adopts to implement a standard of care as provided
8 in subsection 1 for state licensees and registrants. The
9 department may adopt rules regulating a standard of care for
10 a permittee, so long as the rules are not more restrictive
11 than required for a permittee under the Animal Welfare Act.
12 However, the department may adopt prescriptive rules relating
13 to the standard of care. Regardless of whether the department
14 adopts such rules, a permittee meets the standard of care
15 required in subsection 1, if it voluntarily complies with rules
16 applicable to state licensees or registrants. A finding by
17 the United States department of agriculture that a permittee
18 complies with the Animal Welfare Act is not conclusive when
19 determining that the permittee provides a standard of care
20 required in subsection 1.

21 3. A commercial establishment fails to provide for a
22 standard of care as provided in subsection 1, if the commercial
23 establishment commits abuse as described in section 717B.2,
24 neglect as described in section 717B.3, or torture as provided
25 in section 717B.3A.

26 Sec. 16. NEW SECTION. 162.10B Commercial establishments —
27 inspecting state licensees and registrants.

28 The department may inspect the commercial establishment of
29 a registrant or state licensee by entering onto its business
30 premises at any time during normal working hours. The
31 department may inspect records required to be maintained by the
32 state licensee or registrant as provided in this chapter. If
33 the owner or person in charge of the commercial establishment
34 refuses admittance, the department may obtain an administrative
35 search warrant issued under section 808.14.

1 Sec. 17. NEW SECTION. 162.10C Commercial establishments
2 — monitoring permittees.

3 1. The department may monitor the commercial establishment
4 of a permittee by entering onto its business premises at
5 any time during normal working hours. The department shall
6 monitor the commercial establishment for the limited purpose of
7 determining whether the permittee is providing for a standard
8 of care required for permittees under section 162.10A. If
9 the owner or person in charge of the commercial establishment
10 refuses admittance, the department may obtain an administrative
11 search warrant issued under section 808.14.

12 2. In order to enter onto the business premises of a
13 permittee's commercial establishment, the department must have
14 reasonable cause to suspect that the permittee is not providing
15 for the standard of care required for permittees under section
16 162.10A. Reasonable cause must be supported by any of the
17 following:

18 *a.* An oral or written complaint received by the department
19 by a person. The complainant must provide the complainant's
20 name and address and telephone number. Notwithstanding chapter
21 22, the department's record of a complaint is confidential,
22 unless any of the following apply:

23 (1) The results of the monitoring are used in a contested
24 case proceeding as provided in chapter 17A or in a judicial
25 proceeding.

26 (2) The record is sought in discovery in any administrative,
27 civil, or criminal case.

28 (3) The department's record of a complaint is filed by a
29 person other than an individual.

30 *b.* A report prepared by a person employed by the United
31 States department of agriculture that requires a permittee to
32 take action necessary to correct a breach of standard of care
33 required of federal licensees by the Animal Welfare Act or of
34 permittees by section 162.10A. The department is not required
35 to dedicate any number of hours to viewing or analyzing such

1 reports.

2 3. When carrying out this section, the department may
3 cooperate with the United States department of agriculture.
4 The department shall report any findings resulting in an
5 enforcement action under section 162.10D to the United States
6 department of agriculture.

7 Sec. 18. NEW SECTION. 162.10D **Commercial establishments**
8 **— disciplinary actions.**

9 1. The department may take disciplinary action against a
10 person by suspending or revoking the person's authorization for
11 violating a provision of this chapter or chapter 717B, or who
12 commits an unlawful practice under section 714.16.

13 2. The department may require that an owner, operator, or
14 employee of a commercial establishment subject to disciplinary
15 action under subsection 1 to complete a continuing education
16 program as a condition for retaining an authorization.
17 This section does not prevent a person from voluntarily
18 participating in a continuing education program.

19 3. The department shall administer the continuing education
20 program by either providing direct instruction or selecting
21 persons to provide such instruction. The department is not
22 required to compensate persons for providing the instruction,
23 and may require attendees to pay reasonable fees necessary to
24 compensate the department providing the instruction or a person
25 selected by the department to provide the instruction. The
26 department shall, to every extent possible, select persons to
27 provide the instruction by consulting with organizations that
28 represent commercial establishments, including but not limited
29 to the Iowa pet breeders association.

30 4. The department shall establish the criteria for a
31 continuing education program which shall include at least three
32 and not more than eight hours of instruction. The department
33 shall provide for the program's beginning and ending dates.
34 However, a person must complete the program in twelve months
35 or less.

1 Sec. 19. Section 162.11, subsections 1 and 3, Code 2009, are
2 amended by striking the subsections.

3 Sec. 20. Section 162.11, subsection 2, Code 2009, is amended
4 by striking the subsection and inserting in lieu thereof the
5 following:

6 2. This chapter does not apply to a federal licensee except
7 as provided in the following:

8 a. Sections 162.2, 162.2A, 162.2B, 162.7, 162.8, 162.9A,
9 162.10A, 162.10C, 162.10D, 162.12A, and 162.13.

10 b. Section 162.1 but only to the extent required to
11 implement sections described in paragraph "a".

12 c. Section 162.16 but only to the extent required to
13 implement sections described in paragraph "a".

14 Sec. 21. Section 162.12, Code 2009, is amended to read as
15 follows:

16 **162.12 Denial or revocation of license or registration.**

17 A certificate of registration may be denied to any animal
18 shelter, pound, or animal shelter research facility and a
19 state license or certificate of registration may be denied
20 to any public auction, boarding kennel, commercial kennel,
21 ~~research facility~~, pet shop, commercial breeder, or dealer, or
22 an existing certificate of registration or state license may
23 be revoked by the secretary if, after public hearing, it is
24 determined that the housing facilities or primary enclosures
25 are inadequate under this chapter or if the feeding, watering,
26 cleaning, and housing practices at the pound, animal shelter,
27 public auction, pet shop, boarding kennel, commercial kennel,
28 research facility, or those practices by the commercial breeder
29 or dealer, are not in compliance with this chapter or with the
30 rules adopted pursuant to this chapter. The premises of each
31 registrant or state licensee or certificate holder shall be
32 open for inspection during normal business hours.

33 Sec. 22. NEW SECTION. **162.12A Civil penalties.**

34 The department shall establish, impose, and assess civil
35 penalties for violations of this chapter. The department may

1 by rule establish a schedule of civil penalties for violations
2 of this chapter. All civil penalties collected under this
3 section shall be deposited into the general fund of the state.

4 1. *a.* A commercial establishment that operates pursuant
5 to an authorization issued or renewed under this chapter is
6 subject to a civil penalty of not more than five hundred
7 dollars, regardless of the number of animals possessed or
8 controlled by the commercial establishment, for violating this
9 chapter. Except as provided in paragraph "*b*", each day that a
10 violation continues shall be deemed a separate offense.

11 *b.* This paragraph applies to a commercial establishment
12 that violates a standard of care involving housing as provided
13 in section 162.10A. The departmental official who makes
14 a determination that a violation exists shall provide a
15 corrective plan to the commercial establishment describing how
16 the violation will be corrected within a compliance period of
17 not more than fifteen days from the date of approval by the
18 official of the corrective plan. The civil penalty shall not
19 exceed five hundred dollars for the first day of the violation.
20 After that day, the department shall not impose a civil penalty
21 for the violation during the compliance period. The department
22 shall not impose an additional civil penalty, unless the
23 commercial establishment fails to correct the violation by the
24 end of the compliance period. If the commercial establishment
25 fails to correct the violation by the end of the compliance
26 period, each day that the violation continues shall be deemed a
27 separate offense.

28 2. A commercial establishment that does not operate
29 pursuant to an authorization issued or renewed under this
30 chapter is subject to a civil penalty of not more than one
31 thousand dollars, regardless of the number of animals possessed
32 or controlled by the commercial establishment, for violating
33 this chapter. Each day that a violation continues shall be
34 deemed a separate offense.

35 Sec. 23. Section 162.13, Code 2009, is amended to read as

1 follows:

2 **162.13 Penalties Criminal penalties — confiscation.**

3 1. Operation of a pound, animal shelter, pet shop, boarding
4 kennel, commercial kennel, research facility, or public
5 auction, or dealing in dogs or cats, or both, either as a
6 dealer or a commercial breeder, without a currently valid
7 license or a certificate of registration is A person who
8 operates a commercial establishment without an authorization
9 issued or renewed by the department as required in section
10 162.2A is guilty of a simple misdemeanor and each day of
11 operation is a separate offense.

12 2. The failure of any pound, research facility, animal
13 shelter, pet shop, boarding kennel, commercial kennel,
14 commercial breeder, public auction, or dealer, to adequately
15 house, feed, or water dogs, cats, or vertebrate animals in
16 the person's or facility's possession or custody a person
17 who owns or operates a commercial establishment to meet the
18 standard of care required in section 162.10A, subsection 1, is
19 a simple misdemeanor. The animals are subject to seizure and
20 impoundment and may be sold or destroyed as provided by rules
21 which shall be adopted by the department pursuant to chapter
22 17A. The rules shall provide for the destruction of an animal
23 by a humane method, including by euthanasia.

24 3. The failure of a person who owns or operates a commercial
25 establishment to meet the requirements of this section is
26 also cause for the suspension or revocation or suspension
27 of license or registration after public hearing of the
28 person's authorization as provided in section 162.10D. The
29 commission of an act declared to be an unlawful practice under
30 section 714.16 or prohibited under chapter 717 or 717B, by
31 a person licensed or registered under this chapter is cause
32 for revocation or suspension of the license or registration
33 certificate.

34 4. Dogs, cats, and other vertebrates vertebrate
35 animals upon which euthanasia is permitted by law may be

1 destroyed by a person subject to this chapter or chapter 169,
2 by a humane method, including euthanasia, as provided by rules
3 which shall be adopted by the department pursuant to chapter
4 17A.

5 5. It is unlawful for a dealer to knowingly ship a diseased
6 animal. A dealer violating this ~~paragraph~~ subsection is
7 subject to a fine not exceeding one hundred dollars.
8 Each diseased animal shipped in violation of this
9 ~~paragraph~~ subsection is a separate offense.

10 Sec. 24. Section 162.16, Code 2009, is amended by striking
11 the section and inserting in lieu thereof the following:

12 **162.16 Rules.**

13 The department shall adopt rules and promulgate forms
14 necessary to administer and enforce the provisions of this
15 chapter.

16 Sec. 25. Section 717B.1, Code 2009, is amended by adding the
17 following new subsection:

18 NEW SUBSECTION. 3A. "*Department*" means the department of
19 agriculture and land stewardship.

20 Sec. 26. Section 717B.1, Code 2009, is amended by adding the
21 following new subsection:

22 NEW SUBSECTION. 3A. "*Department*" means the department of
23 agriculture and land stewardship.

24 Sec. 27. NEW SECTION. 717B.10 **Threatened animal reporting**
25 **by veterinarians.**

26 This section applies to a veterinarian who is licensed or who
27 holds a valid temporary permit to practice veterinary medicine
28 in this state pursuant to chapter 169.

29 1. A veterinarian who is presented with an animal for
30 examination or treatment shall file a threatened animal report
31 if the veterinarian determines that the animal is a threatened
32 animal.

33 2. The department shall establish a system of receiving and
34 filing threatened animal reports, including the promulgation
35 of forms. A threatened animal report shall be in writing in

1 a printed or electronic format as required by the department.
2 The threatened animal report shall include information as
3 required by the department which shall at least include all of
4 the following:

5 a. Information identifying the veterinarian.

6 b. Information identifying the responsible party, including
7 the name and address of the responsible party.

8 c. Information identifying the threatened animal,
9 including by family and species classification, the name and a
10 description of the threatened animal, and any other identifying
11 information accessed from an installed identification device
12 as defined in section 169A.1.

13 d. The date that the veterinarian examined or treated the
14 threatened animal.

15 e. A summary description of the threatened animal's
16 condition and any required treatment whether or not
17 administered.

18 3. A veterinarian shall use best efforts to complete the
19 threatened animal report, but is not required to conduct an
20 inquiry in order to obtain information solely to complete the
21 report.

22 4. A veterinarian who in good faith files a threatened
23 animal report with the department shall not be criminally or
24 civilly liable, including for damages for acts or omissions
25 in preparing or filing the threatened animal report, or
26 cooperating with the department or a local authority. The good
27 faith of the veterinarian is presumed as a matter of law.

28 5. A veterinarian is not required to file a threatened
29 animal report if any of the following apply:

30 a. The veterinarian when examining or treating a threatened
31 animal is any of the following:

32 (1) Employed by the state or local authority.

33 (2) Under contract with state or local authority.

34 (3) Under the supervision of the state or local authority.

35 b. The veterinarian is conducting an examination or

1 treatment pursuant to court order.

2 6. The department may forward a threatened animal report
3 to the local authority where the responsible party resides
4 or where the threatened animal is kept. The department may
5 investigate a commercial establishment identified as the
6 responsible party in a threatened animal report.

7 7. The department shall record a veterinarian who fails to
8 file a threatened animal report as required by this section.
9 Prior to recording the veterinarian, the department shall
10 notify the veterinarian of its determination and provide the
11 veterinarian with an opportunity to contest the determination
12 pursuant to chapter 17A. A veterinarian who is recorded and
13 who subsequently fails to file a threatened animal report
14 is guilty of a simple misdemeanor. The department may
15 refer information regarding such failure subsequent to the
16 veterinarian's recording under this subsection to the county
17 attorney in the county where the veterinarian is practicing
18 or to the attorney general who may initiate and carry out
19 the prosecution in cooperation, if possible, with the county
20 attorney.

21 Sec. 28. REPEAL. Sections 162.9, 162.10, and 162.18, Code
22 2009, are repealed.

23 Sec. 29. CURRENT DEPARTMENTAL RULES. This Act does not
24 diminish the authority of the department of agriculture and
25 land stewardship to regulate different types of commercial
26 establishments as provided in 21 IAC ch. 67.

27 Sec. 30. ISSUANCE OF PERMITS. This Act does not require
28 a commercial establishment that has been issued or renewed a
29 certificate of registration to be issued a permit earlier than
30 required in section 162.2A for the renewal of a permit. The
31 person shall hold the certificate of registration in the same
32 manner as a permit pursuant to this Act.

33 Sec. 31. EFFECTIVE UPON ENACTMENT. This Act, being deemed
34 of immediate importance, takes effect upon enactment.

35

EXPLANATION

1 GENERAL. This bill provides for the regulation of
2 commercial establishments that possess or control animals,
3 other than animals used for an agricultural purpose, by the
4 department of agriculture and land stewardship. Under current
5 law an animal shelter, pound, or research facility must obtain
6 a certificate of registration; a pet shop, boarding kennel, or
7 commercial kennel must obtain a state license; and a commercial
8 breeder, dealer, and public auction must obtain a certificate
9 of registration because they are federally licensed. The bill
10 provides that a commercial breeder, dealer, and public auction
11 must obtain a permit instead of a certificate of registration.
12 All of these documents are referred to as authorizations.

13 AUTHORIZATION. The bill provides that a commercial
14 establishment must pay a fee for being issued or renewed an
15 authorization. The bill increases fees required to be paid for
16 the issuance or renewal of an authorization. The bill requires
17 the department to establish different fees for greyhounds kept
18 for racing and to regulate a commercial breeder who breeds
19 any number of greyhounds. It places a restriction upon the
20 department's power to enter onto the premises of a commercial
21 establishment being issued a permit.

22 PURCHASE OF DOGS AND CATS BY UNAUTHORIZED COMMERCIAL
23 ESTABLISHMENTS. The bill prohibits a research facility, pet
24 shop, boarding kennel, commercial kennel, dealer, commercial
25 breeder, or public auction from purchasing a dog or cat from a
26 commercial establishment, that is not authorized in this state
27 or another state.

28 STANDARD OF CARE. The bill requires that commercial
29 establishments must operate pursuant to an authorization and
30 requires registrants and state licensees to maintain records.
31 The bill provides for a general standard of care for all
32 commercial establishments. The commercial establishment must
33 ensure that an animal in its possession or under its control is
34 not lacking adequate feed, adequate water, housing facilities,
35 sanitary control, grooming practices affecting the health of

1 the animal, or veterinary care. A registrant or state licensee
2 must comply with departmental rules, with two exceptions.
3 The department may adopt different rules that apply to state
4 licensees who keep greyhounds for racing. A permittee may meet
5 the standard of care without complying with the departmental
6 rules. It may also fail to meet the standard of care even
7 though it passes a federal inspection. The department may
8 adopt rules implementing a standard of care so long as the
9 rules are not more restrictive than the federal Animal Welfare
10 Act. The bill allows the department to adopt prescriptive
11 rules. A person who commits animal cruelty under Code chapter
12 717B fails to meet the standard of care.

13 ENTERING ONTO THE BUSINESS PREMISES. The bill provides
14 that the department may inspect a registrant or state licensee
15 by entering onto its business premises and may inspect its
16 records. The department may monitor a permittee by entering
17 onto its business premises for the limited purpose of
18 determining whether the permittee is providing for the required
19 standard of care. In order to enter onto the premises of a
20 permittee, the department must have reasonable cause supported
21 by an oral or written complaint or a report filed by the United
22 States department of agriculture. The bill provides for the
23 confidentiality of complaints filed by individuals unless they
24 are relevant to an administrative or court proceeding.

25 DISCIPLINARY ACTIONS. The bill provides that the department
26 may take disciplinary action against a commercial establishment
27 by suspending or revoking the commercial establishment's
28 authorization. The department may require that an owner,
29 operator, or employee of a commercial establishment complete
30 a continuing education program which is supervised by the
31 department but may be administered by a person selected by the
32 department.

33 EXCEPTIONS. The bill eliminates provisions that exempted
34 federal licensees from regulations. It provides that
35 permittees are subject to regulation as expressly provided in

1 the Code chapter.

2 PENALTIES. The bill authorizes the department to establish,
3 impose, and assess civil penalties for violations of the bill's
4 provisions. For an authorized commercial establishment the
5 civil penalty is up to \$500 per each day of a violation. For a
6 housing violation, the civil penalty is assessed for the first
7 day, but not for the subsequent 15 days to allow for correction
8 according to a departmental plan.

9 Generally a person who violates a standard of care is guilty
10 of a simple misdemeanor. The bill provides that a person
11 who operates a commercial establishment without obtaining an
12 authorization is guilty of a simple misdemeanor. A simple
13 misdemeanor is punishable by confinement for no more than 30
14 days or a fine of at least \$65 but not more than \$625 or by
15 both.

16 RULES. The bill authorizes the department to adopt rules
17 necessary to administer and enforce the provisions of the bill
18 amending Code chapter 162. It eliminates a provision that
19 provides the department cannot adopt rules more stringent than
20 federal regulations.

21 CURRENT DEPARTMENTAL RULES. The bill provides that it
22 does not diminish the authority of the department to regulate
23 different types of commercial establishments as provided in its
24 rules.

25 MANDATORY REPORTING BY VETERINARIANS. The bill provides
26 that a veterinarian who is licensed or who holds a valid
27 temporary permit to practice veterinary medicine under Code
28 chapter 169 must file a report with the department if the
29 veterinarian determines that an animal other than livestock is
30 threatened by neglect, abuse, or cruelty as those offenses are
31 defined in Code chapter 717B. The bill provides for procedures
32 required to file a report. The department may forward the
33 report to a local authority for enforcement. There is no
34 penalty for a veterinarian who on the first occasion fails to
35 file a report. The bill shields a veterinarian who files a

1 report with the department in good faith from criminal or civil
2 liability. A veterinarian who subsequently fails to file a
3 report after the department provides the veterinarian a warning
4 for the first offense is guilty of a simple misdemeanor.

5 A simple misdemeanor is punishable by confinement for no
6 more than 30 days and a fine of at least \$65 but not more than
7 \$625 or both.

8 EFFECTIVE DATE. The bill takes effect upon enactment.